

REMARKS

With entry of this amendment, withdrawn claims 1-17, 22, 23, 28, and 29 have been cancelled, and claims 32-34 have been newly added. As a result, claims 18-21, 24-27, and 30-34 are pending in this application. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Claim Rejections-35 U.S.C. §103

Claims 18-21, 24-27, 30, and 31 stand rejected under 35 U.S.C. §103, as being obvious over PCT Publication No. WO 02/34330 (Hill '330) in view of PCT Publication No. WO 02/34327 (Hill '327). Applicant respectfully traverse this rejections, since no proper combination of Hill '330 and Hill '327 discloses, teaches, or suggests the combination of elements required by these claims, as amended.

In particular, independent claim 18 has been amended to require a subcutaneous branch of an intercostal nerve to be electrically stimulated. Support for this amendment can be found at Fig. 3 and page 32, lines 3-7 of the specification. In contrast, the intercostal nerve stimulated in Hill '330 is not a subcutaneous branch of an intercostal nerve, since Hill '330 discloses that the nerves located "in the pectoral region of the left chest located beneath the facia on the muscle and motor point of the pectoral muscle with stimulation of the musculocutaneous and thoracic nerves." That is, the subcutaneous branches of an intercostal nerve are located directly beneath the skin, whereas the stimulation in Hill '330 is disclosed as being located beneath the pectoral muscle. Hill '327 does not supplement the failed teachings of Hill '330.

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Thus, Applicant submits that independent claim 18, as well as the claimed depending therefrom (claims 19-21, 24-27, 30, and 31) are not obvious over any proper combination of Hill '330 and Hill '327, and as such, respectfully request withdrawal of the §103 rejections of these claims.

New Claims

Applicant submits that newly added claims 32-34 find support in the specification, as originally filed, and are patentable over the cited prior art for at least the same reasons as independent claim 18 from which they depend is patentable over the cited prior art.

Conclusion

Based on the foregoing, it is believed that all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (949) 724-1849.

Respectfully submitted,

VISTA IP LAW GROUP LLP

By:


Michael J. Bolan
Reg. No. 42,339

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Customer No. 23410
Vista IP Law Group LLP
2040 Main Street, 9th Floor
Irvine, CA 92614